

### **REMARKS/ARGUMENTS**

Upon entry of the instant amendment, claims 1-5, 7-9 and 11-13 are pending. Claim 10 has been cancelled. Claim 1 has been amended to more particularly point out the Applicants' invention. Since the action is under final, a Request for Continued Examination pursuant to 37 C.F.R. §1.114 is included. Also enclosed is a copy of an Information Disclosure Statement which brings to the attention of the Examiner various prior art cited in a corresponding European application before the European Patent Office. The Examiner is respectfully requested to make the references in the Information Disclosure Statement of record.

#### **Double Patenting:**

Claim 11 has been objected to under 37 C.F.R. 1.75 as being a substantial duplicate of claim 10. In order to overcome this rejection, claim 10 is being cancelled. Thus, this rejection should be obviated.

#### **Claim Rejections – 35 U.S.C. §103:**

Claims 1-13 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Jiang et al.* U.S. patent no. 5,719,893 in view of *Aronson et al.* U.S. patent no. 6,483,862. It is respectfully submitted that neither the *Jiang et al.* or *Aronson et al.* patents disclose or suggest a structure as recited in the claims at issue. The Applicants agree that the *Jiang et al.* patent does not disclose a light monitoring device formed on top of the passivation layer. However, the window 131 referred to in the *Jiang et al.* patent refers to a portion of the passivation layer which the Examiner contends is a window. As stated in column 5 of the *Jiang et al.* patent, lines 40 *et seq.*, the passivation layer is formed from an insulative material and formed with a thickness determined by the wavelength of light by the light emitting semiconductor. The "window 131" disclosed in the *Jiang et al.* patent requires relatively complex and precise processing so as to pass the light frequency of the emitted light of the semiconductor device. The device recited in

the claims at issue totally avoids this problem by omitting the passivation layer between the light monitoring device and the light emitting semiconductor device.

The *Aronson* device as set forth in column 7, line 58 *et seq.* of the *Aronson et al.* patent a AlOx layer is disposed between the light emitting device and the photodetector. This AlOx layer is configured to have a refractive index lower than the surrounding semiconductor. Thus, similar to the *Jiang et al.* device, process controls must be relatively tightly controlled in order for the photodetector to properly detect the light emissions from the light emitting device. As mentioned above, the device recited in the claims at issue does not have any intervening layers between the light emitting semiconductor device and the photodetector. Thus, such complicated and expensive process controls are totally eliminated. For all of the above reasons, the Examiner is respectfully requested to reconsider and withdraw the rejections of the claim.


#### CONCLUSION

An earnest attempt has been made to address each and every issue raised in the Official Action. Accordingly, an early allowance is earnestly solicited.

Respectfully submitted,

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